

Vivian G. Lopez, Esq., AA2TW
1264 Pierce Street
Rahway, New Jersey 07065-3932

RECEIVED

APR 24 1995

DOCKET FILE COPY ORIGINAL

April 19, 1995

RECEIVED

Secretary
Federal Communications Commission
Washington, DC 20554

Re: RM-8626; Petition for Rulemaking by Frederick O. Maia, W5YI
Requesting Amendment of the Commission's Rules to Eliminate Certain
One-Way Communications in the Amateur Radio Service Medium and High
Frequency Bands

Dear Sir/Madam:

Please accept the comments below in response to your solicitation of same by
Public Notice of April 4, 1995.

Section 303(m) of the Communications Act of 1934 gives the Commission the
authority to suspend the license of any operator who has "willfully or
maliciously interfered with any other radio communications or signals." The
problem petitioner describes falls squarely within the noted statutory
prohibition, and should be reported factually to the Commission for action
rather than used as a rationale to request amendment of nationwide regulations
prohibiting all related activity under 30 MHz in one fell swoop.

Commission furtherance of this petition would take away from the amateur and
non-amateur community valuable, costless services because of the alleged bad
manners and illegal activities of a very few.

I would wish that I were incorrect in my impression of the captioned petition
as an example of a company formally asking a government agency to legislate
away competition. The rulemaking petition appears to be thinly disguised
commercial avarice. Petitioner offers products and services for a fee.
Others offer the same for free. The former seeks to eliminate the latter,
using the Federal Communications Commission as a vehicle. I hope I am wrong.

Petitioner's arguments in support of his request are non-arguments. This
objectionable attempt to convince the Commission to deprive amateur radio
operators of free code practice and information is at conflict with W5YI's
status as a VEC. I am puzzled as to how the Commission can continue to
legitimize what now more than ever before surely walks and talks like a
conflict of interest.

No. of Copies rec'd 015
List A B C D E

Comment on Rule Petition Page Two

I as an amateur radio operator have purchased some of petitioner's products. My experience with those products has been a positive one. Is the economy so bad that the petitioner cannot successfully compete in a growing marketplace for amateur radio products and information without resorting to this?

The Petitioner

The description of the petitioner focusses on his concern for amateur radio. But, examine the sentence, "[b]esides his life-long interest in amateur radio as a hobby, Mr. Maia is committed to serving the Amateur Radio Service through several related activities." Expressed so casually is the root of the problem with this petition. Those "several related activities" are for profit, a concept basic to a business-oriented society, but at odds with the principles of amateur radio.

I have not experienced nor have I heard of the problem petitioner describes. Perhaps if I had heard it on HF, my opinion would be colored a tint differently. I cannot believe, though, that the solution to a problem is to throw away the baby with the bathwater.

Petitioner might better consider providing high quality broadcasts of code practice and information of interest to the amateur radio community. He could provide an example to those operators who offend. Or, better to document and refer instances of the poor operating practices described in the petition to the FCC for prosecution rather than make the services themselves illegal.

The American Radio Relay League, which also markets amateur radio-related products, competes with itself by also offering "free" information bulletins and code practice sessions to members and non-members alike. The on-air code practice sessions are non-repetitive and superior to tapes that are memorized before they are learned.

The Need for a Rule Change

On the one hand, petitioner points to crowded band conditions and the increase occurring in the ranks of the amateur radio service since introduction of the no-code tech license. On the other hand, petitioner expresses concern over the "level of anger" and the degree to which the resulting malicious interference impacts on relatively new amateurs as a result of instances of bad manners by "bulletin stations." It certainly has not discouraged entry into the ranks of amateur radio operators, nor has it apparently discouraged upgrading. The "Technician VHF Amateur" operators, because of their limited privileges, spend less time below 30 MH than amateurs with higher licenses. Petitioner's logic in concluding that eliminating code practice and amateur informational broadcasts below 30 MH would cure a perceived "crisis" of bad example is unclear at best.

Petitioner's concern about international relations is unfounded. When the overwhelming majority of a population works dx with traditional amateur radio courtesy, the small minority will not cause the damage alleged.

Permissible One-Way Transmissions

Petitioner here criticizes the information bulletin exception in Section 97.3(a)(23) as too broad. Petitioner does not suggest rephrasing the exception itself more precisely, perhaps. Petitioner instead sweepingly requests that the exception be eliminated below 30 MHz. Why not above? It is impossible to avoid the inference that the limited activity on 6 meters and the primarily local nature of VHF communications do not provide the objectionable competition petitioner is really concerned about.

A Pattern of Growing Abuse

I do not challenge petitioner's description of poor operating practices. They exist. In the few years I have been involved in the hobby, I have experienced them as have most other amateurs. I do challenge petitioner's "pattern." There has always been and, sadly, probably always will be a tiny percentage of licensed amateurs who abuse their privileges. There are more amateur radio operators now than there have ever been before. The small percentage of abusers is vocal, noticeable and occasionally an embarrassment to the hobby. Would not a more productive effort be focussed on identifying and punishing abusers?

With respect to this growing "pattern," I must plead ignorance. No one in my club of 150 members, the Tri-County Radio Association where I am a trustee, has ever mentioned the pattern, crisis or chaos described in the petition. No one among many members active on HF has ever mentioned bulletin stations as a problem. I assume that if they are not interested, they do not listen. If the bulletin stations identify, which by law they must, then their poor operating practices can be reported and dealt with. If the content of their bulletins is improper, they should be censured by the Commission.

Argument

How presumptuous of petitioner to suggest amateur radio operators use telephone lines and pay to link up to on-line computer services. How remarkable that "code practice is now easily accomplished via software training and simulation programs." There are commercial newsletters available, too, such as petitioner's. Again, one cannot avoid the implication that between the lines petitioner is suggesting amateurs should not listen to the free broadcasts he complains about, but rather amateurs should purchase his products and services.

If petitioner's "argument" is that the Commission should accomplish a sweeping elimination of free services by changing its rules on the basis that there are alternative paid services available, the argument is unpersuasive.

Comment on Rule Petition Page Four

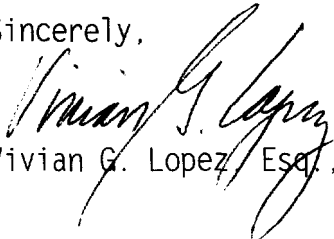
Petitioner's argument echoes recent controversy over whether Internet is inherently bad because of the small proportion of objectionable material accessible to users. It is analogous to arguing the "elimination" of the Internet because a few abusers are making offensive material available on that medium.

Conspicuously lacking in the petition is any factual or even anecdotal basis for the request being put forth.

I request the Commissioners provide this petition with the de minimis attention it warrants.

Thank you for considering my comments.

Sincerely,


Vivian G. Lopez Esq., AA2TW

c: Raymond A. Kowalski, Esq.